

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:07CV155-MU-02

JOHN LEE CAUSER,
Plaintiff,

v.

DAVID MITCHELL, et al.,
Defendants.

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O R D E R

THIS MATTER comes before the Court on initial review of the plaintiff's form-civil rights Complaint under 42 U.S.C. §1983, filed April 24, 2007. For the reasons stated herein, this matter will be dismissed without prejudice.

According to the Complaint, the plaintiff alleges that his case manager at the Mountainview Correctional Institution has assigned him to participate in a "Life Skills" class; that such assignment was "against [his] will"; and that due to his rejection of that assignment, "staff" has enforced "disciplinary punishment" upon him without a valid reason. By way of relief, the plaintiff is seeking thousands in monetary damages, as well as an injunction prohibiting the defendants from requiring him to take the subject Life Skills class.

Notably, however, in the portion of the plaintiff's form-Complaint which requires him to establish that he has exhausted

his administrative remedies, the plaintiff candidly reports that he has not exhausted his administrative remedies. That is, the plaintiff explains that he has not been able fully to exhaust his grievances because certain other grievances which he previously had filed still are pending on appeal at his institution.

Thus, inasmuch as it is well settled that prisoners must exhaust available remedies before bringing suits challenging prison conditions, this Complaint must be dismissed, albeit without prejudice, for the plaintiff's failure to fully exhaust his administrative remedies on the claims set forth herein. See Booth v. Churner, 532 U.S. 731 (2001).

NOW, THEREFORE, IT IS ORDERED THAT:

1. The plaintiff's Complaint is **DISMISSED without prejudice** for his failure fully to exhaust his administrative remedies as required under 42 U.S.C. 1997e.

SO ORDERED.

Signed: April 26, 2007



Graham C. Mullen
United States District Judge

